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Attorneys for Defendant-  
 Counterclaim Plaintiff Radiancy,  
 Inc.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

TRIA BEAUTY, INC.,

Plaintiff,

vs.

RADIANCY, INC.,

Defendant.

RADIANCY, INC.,

Counterclaim-Plaintiff,

vs.

TRIA BEAUTY, INC.

Counterclaim-  
 Defendant.

Case No. CV-10-5030 RS

**RADIANCY, INC.'S STATEMENT  
 OF NON-OPPOSITION TO TRIA  
 BEAUTY, INC.'S MOTION FOR  
 LEAVE TO FILE FIRST AMENDED  
 COMPLAINT**

Date: August 25, 2011

Time: 1:30 p.m.

Ctrm: 3

Honorable Judge Richard Seeborg

**JURY TRIAL DEMANDED**

1 On July 8, 2011, Plaintiff-Counterclaim Defendant Tria Beauty, Inc.  
 2 (“TRIA”) filed a Motion for Leave to File its First Amended Complaint (the  
 3 “Motion”).

4 Pursuant to Civil Local Rule 7-3(b), Defendant-Counterclaim Plaintiff  
 5 Radiancy, Inc. (“Radiancy”) hereby informs the Court that it does not oppose the  
 6 Motion. Radiancy does, however, disagree with the allegations and claims  
 7 propounded in TRIA’s proposed First Amended Complaint, and reserves all of its  
 8 rights concerning the same.

9 Radiancy also informs this Court that page 2, lines 9-17, of TRIA’s  
 10 Memorandum of Points and Authorities in support of the Motion contains an  
 11 inaccurate description of certain aspects of the Court-directed mediation proceeding  
 12 that occurred in March of this year. Notwithstanding its inaccuracy, TRIA’s  
 13 disclosure is also improper under ADR Local Rule 6-12, which provides that  
 14 anything that occurred or was said in mediation is confidential and shall not be  
 15 disclosed to the assigned judge or used for any purpose in any pending or future  
 16 proceeding in this court. Accordingly, Radiancy respectfully requests the Court  
 17 disregard that portion of TRIA’s Motion.

18 Respectfully submitted,

19  
 20 DATED: July 22, 2011

Brendan J. O’Rourke  
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 Robert H. Horn  
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24 By: /s/ Robert H. Horn  
 25 Robert H. Horn  
 26 Attorneys for Defendant and Counterclaim-  
 27 Plaintiff Radiancy, Inc.  
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